

CHU.24544

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

KAREN DI PIAZZA, Individually and as §
Mother to CORBIN JAEGER and as §
Personal Representative of the Estate of §
CORBIN LEE JAEGER, Deceased, §
Plaintiff, §
§
VS. § CIVIL ACTION NO. 5:19-CV-060-C
§
WEATHER GROUP TELEVISION, LLC §
dba THE WEATHER CHANNEL, a §
Georgia limited liability company, et al. §
§
Defendants. §

**APPENDIX TO DEFENDANTS WEATHER GROUP TELEVISION, LLC dba
THE WEATHER CHANNEL AND WEATHER GROUP, LLC'S
MOTION TO ABATE AND BRIEF IN SUPPORT**

Respectfully submitted,

/s/ Douglas D. Fletcher
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ATTORNEYS FOR DEFENDANTS

TABLE OF CONTENTS

Exhibit	Document
A.	Certified Copy of Petition for Adjudication of Intestacy, Determination of Heirs, and Appointment of Personal Representative, filed February 13, 2018, <i>In the Matter of the Estate of Corbin Lee Jaeger, Deceased</i> , Case No. PB2018-001588, in the Superior Court of Arizona, County of Maricopa.
B.	Certified Copy of Order of Intestacy, Determination of Heirs, and Appointment of Personal Representative, filed March 21, 2018, <i>In the Matter of the Estate of Corbin Lee Jaeger, Deceased</i> , Case No. PB2018-001588, in the Superior Court of Arizona, County of Maricopa.
C.	Order Granting Motion to Abate and Administratively Closing Case, in <i>Brian Shao, et al. v. Lei Yu</i> , Case No. 4:15-CV-00060-DC (W.D. Tex. Sept. 26, 2018) (Counts, J.).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was electronically filed via the Court's CM/ECF system and a true and correct copy of same thereby was delivered to all counsel of record in accordance with the Federal Rules of Civil Procedure on the 20th day of September 2019.

/s/ *Douglas D. Fletcher*

DOUGLAS D. FLETCHER

MICHAEL K. JEANES
 Clerk of the Superior Court
 By Kristy Kee, Deputy
 Date 02/13/2018 Time 16:54:49
 Description Amount
 CASE# PB2018-001588
 OTHER NEW PROBATES 271.00
 TOTAL AMOUNT 271.00
 Receipt# 26409750

1 **Jaburg & Wilk, P.C.**
 2 3200 N. Central Avenue, 20th Floor
 2 Phoenix, AZ 85012
 602.248.1000
 3 Lauren L. Garner (019475)
 llg@jaburgwilk.com
 4 *Attorneys Petitioner Karen Di Piazza*

5
 6 **SUPERIOR COURT OF ARIZONA**
 7
 8 **COUNTY OF MARICOPA**

JABURG|WILK
 Attorneys at Law

9 In the Matter of the Estate of:

10 CORBIN LEE JAEGER,
 11 Deceased.

Case No. PB 2018-001588

**PETITION FOR ADJUDICATION OF
 INTESTACY, DETERMINATION OF
 HEIRS AND APPOINTMENT OF
 PERSONAL REPRESENTATIVE**

12 1. This petition is made by Karen Di Piazza ("Petitioner") who is interested
 13 in this estate because she is the decedent's mother and an heir.

14 2. Corbin Lee Jaeger ("Decedent") died on March 28, 2017, at the age of 25
 15 years. At the time of death, Decedent was domiciled in Maricopa County, State of
 16 Arizona.

17 3. Decedent left surviving the following persons who are the surviving
 18 spouse, children, heirs and devisees:

19 Name and Address	Relationship <u>To Decedent</u>
20 Karen Di Piazza 4351 W. Sandra Circle Glendale, AZ 85308	Mother
21 Lawrence Edward Jaeger c/o SCL Mortgage 120 S. Wilcox Street, Suite 100 Castle Rock, CO 80104	Father

JABURG|WILK
Attorneys at Law

1 4. Venue for this proceeding is in this county because Decedent was a
2 domiciliary of this county at the time of death.

3 5. No Personal Representative for Decedent's estate was appointed in this
4 state or elsewhere.

5 6. Petitioner has not received a demand for notice and is not aware of any
6 demand for notice by any interested person of any proceeding concerning Decedent in
7 this state or elsewhere.

8 7. After the exercise of reasonable diligence, Petitioner is unaware of any
9 unrevoked testamentary instrument executed by Decedent relating to property having
10 situs in this state.

11 8. Petitioner states that the names, relationships and addresses of all persons
12 having a prior or equal right to appointment under A.R.S. §14-3203 are:

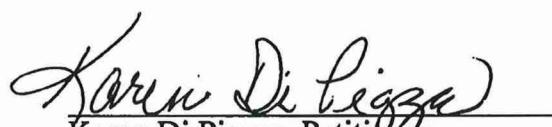
	Name and Address	<u>Relationship To Decedent</u>
14	Karen Di Piazza 4351 W. Sandra Circle Glendale, AZ 85308	Mother
16	Lawrence Edward Jaeger c/o SCL Mortgage 120 S. Wilcox Street, Suite 100 Castle Rock, CO 80104	Father

19 9. Decedent's existing assets were nominal and, therefore, it is requested
20 that bond be waived. This probate proceeding is being initiated to pursue a wrongful
21 death and survivor lawsuit. In addition, there may be recovery from an insurance
22 policy.

23 10. The time for informal probate and appointment has not expired under
24 A.R.S. §14-3108 because less than two years have passed since Decedent's death.

1 Petitioner requests that the Court, after notice and hearing, issue an order which:
2
3 A. Make the findings required by A.R.S. § 14-3409, including a finding that
Decedent died intestate.
4
5 B. Determine Decedent's lawful heirs.
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7 C. Appoints Karen Di Piazza as personal representative of Decedent's estate
without bond.
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10 DATED this 10th day of February, 2018.
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Karen Di Piazza, Petitioner
4351 W. Sandra Circle
Glendale, AZ 85308

JABURG|WILK
Attorneys at Law

The foregoing instrument is a full, true and correct copy of the original on file in this office.

Attest SEP 13 2019 20
JEFF FINE, Clerk of the Superior Court of the
State of Arizona, in and for the County of Maricopa.
By Jeff Fine, Deputy Clerk

3/21/18 FILED 10:25am
MICHAEL K. JEANES, Clerk
By R. Smith
Deputy

1
2
3 **Jaburg & Wilk, P.C.**
4 3200 N. Central Avenue, 20th Floor
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7 Lauren L. Garner (019475)
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8 *Attorneys Petitioner Karen Di Piazza*

9
10 **SUPERIOR COURT OF ARIZONA**
11 **COUNTY OF MARICOPA**

12 In the Matter of the Estate of:
13 CORBIN LEE JAEGER,
14 Deceased.

15 Case No. PB2018-001588

16 **ORDER OF INTESTACY,
DETERMINATION OF HEIRS AND
APPOINTMENT OF PERSONAL
REPRESENTATIVE**

17 (Hearing on March 21, 2018 at 9:30 a.m.)

18 **Warning: This appointment is not effective until "Letters of Appointment"
have been issued by the Clerk of the Superior Court.**

19 The Petition for Adjudication of Intestacy, Determination of Heirs and
20 Appointment of Personal Representative having been considered by the Court, the Court
21 finds:

22 1. Notice was given as required by law.
23 2. Corbin Lee Jaeger ("Decedent") died on March 28, 2017. This
24 proceeding was commenced within two years of the time of death.

25 3. Venue for this proceeding is in this county because Decedent was a
26 domiciliary of this county at the time of death.

27 27 4. Decedent died intestate, leaving the following heirs:
28

1	<u>Name and Address</u>	<u>Relationship To Decedent</u>
2	Karen Di Piazza 4351 W. Sandra Circle Glendale, AZ 85308	Mother
4	Lawrence Edward Jaeger 103 4th Street, Suite 220 Castle Rock, CO 80104-2424	Father
6		

7 5. Karen Di Piazza is entitled to appointment as personal representative of
8 Decedent's estate.

9 6. Bond is not required.

10 IT IS ORDERED that:

11 A. Decedent died intestate leaving the heirs named above.

12 B. Karen Di Piazza is appointed as personal representative without bond and
13 Letters shall be issued upon the personal representative's accepting.

14 C. The personal representative shall notify the Court within ten (10) days of
15 any change in address and shall be responsible for all costs resulting from failure to do
16 so.

17 Pursuant to Rule 54(c), Ariz. Civ. P., no further matters remain pending, and the
18 Court therefore, enters this as a final appealable order.

19 DATED 3-21-18.

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Commissioner Carolyn Passamonte

ADDENDUM TO COURT ORDER – COMPLIANCE

Case #: PB2018-001588

To maintain public trust and confidence, the Court has a duty to ensure that court-appointed Guardians, Conservators and Personal Representatives comply with all Court Orders, Court Rules and Arizona Probate Laws. Therefore, **IT IS ORDERED** that the following tasks be completed in this case:

GUARDIANS:

- Issue Letters of Appointment within 10 days
- File Certificate of Completion of Training within 10 days

PERSONAL REPRESENTATIVES / SPECIAL ADMINISTRATORS:

- Issue Letters of Appointment within 10 days
- File Certificate of Completion of Training within 10 days
- Post a Bond within 10 days *W.M. Bell*
- File or provide proof of mailing of Inventory & Appraisement within 90 days of appointment *W.M. Bell*

CONSERVATORS:

- Issue Letters of Appointment within 10 days
- File Certificate of Completion of Training within 10 days
- Post a Bond within 10 days
- File Proof of Restricted Account within 30 days of appointment
- File Proof of Recorded Restriction on Real Property within 30 days of appointment
- File Proof of Annuity Contract within 60 days of appointment
- File Inventory & Appraisement within 90 days of appointment
- File Consumer Credit Report (dated within 90 days of the Inventory & Appraisement) within 90 days of appointment

IT IS FURTHER ORDERED that the following person(s) are responsible for completing these tasks:

RESPONSIBLE FIDUCIARY:

- Guardian
- Conservator/Special Conservator
- Personal Representative/ Special Administrator

RESPONSIBLE ATTORNEY:

- Attorney for the Fiduciary
- Attorney for the Insurance Company
- Attorney for the Ward or Protected Person

A REVIEW HEARING IS SET TO DETERMINE COMPLIANCEReview Hearing Date: 04/24/2018

Time: 8:30 a.m.

Hearing Location: 125 W. Washington St., Courtroom 104, Hon. Jay Polk
Compliance with Bond, Training, and Letters of Appointment.

Review Hearing Date: 05/08/2018

Time: 8:30 a.m.

Hearing Location: 125 W. Washington St., Courtroom 104, Hon. Jay Polk
Compliance with Restricted Account and Restricted Real Property.

Review Hearing Date: 06/12/2018

Time: 8:30 a.m.

Hearing Location: 125 W. Washington St., Courtroom 104, Hon. Jay Polk
Compliance with Annuity Contract.

Review Hearing Date: 07/26/2018

Time: 8:30 a.m.

Hearing Location: 125 W. Washington St., Courtroom 104, Hon. Jay Polk
Compliance with Inventory and Appraisement and Consumer Credit Report.

IF YOU HAVE COMPLIED WITH THE ORDERS OF THIS COURT, THE REVIEW HEARING WILL BE VACATED. YOU WILL NOT BE NOTIFIED IF A REVIEW HEARING IS VACATED.

IF YOU BELIEVE YOU HAVE COMPLIED WITH THE ORDERS OF THIS COURT, CONTACT PROBATE ADMINISTRATION AT (602) 506-5510. REVIEW FOR COMPLIANCE OCCURS UP TO THE DATE OF THE HEARING; THEREFORE, YOU SHOULD CALL THE DAY BEFORE THE HEARING TO SEE IF YOUR HEARING HAS BEEN VACATED.

ALL OTHER QUESTIONS ABOUT YOUR CASE SHOULD BE DIRECTED TO THE COURT WHERE YOUR CASE IS ASSIGNED.

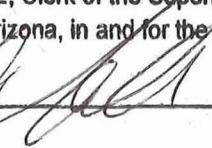
DATED: 3/21/2018

JUDICIAL OFFICER:

Carolyn Passamonte
The Honorable Carolyn Passamonte

The foregoing instrument is a full, true and correct copy of the original on file in this office.

Attest SEP 13 2019 20
JEFF FINE, Clerk of the Superior Court of the
State of Arizona, in and for the County of Maricopa.

By  Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

**BRIAN SHAO, individually and as
Representative of the Estate of Min Zhao
Shao;**
Plaintiff,

v.

YU LEI,
Defendant.

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P:15-CV-00060-DC

ORDER GRANTING MOTION TO ABATE & ADMINISTRATIVELY CLOSING CASE

Before the Court is Defendant Lei Yu's Motion to Abate. (Doc. 68). Plaintiff filed a Response on September 11, 2018. (Doc. 74). The Court held a hearing on the Motion on September 25, 2018.

In the instant motion, Defendant argues that Plaintiff filed a wrongful death action but "failed to join all statutory beneficiaries and, in turn, necessary parties under the Wrongful Death Statute." (Doc. 68 at 1). More specifically, Defendant argues that Plaintiff failed to join the decedent's parents who are alive and residing in China. *Id.* at 2. Plaintiff counters that the parent's claim is barred by the statute of limitations and thus the Plaintiff represents the interest of all wrongful death beneficiaries entitled to recover. (Doc. 74 at 2). Further, Plaintiff argues that if the Court finds that the decedent's parents are beneficiaries entitled to recover, the decedent's parents need not be made parties to the case. *Id.* at 4–5. Rather, it is sufficient that Plaintiff amend his complaint to bring the wrongful death action on behalf of all statutory beneficiaries. *Id.*

Under Texas law, where there is evidence that the deceased has other relatives who may recover under the Texas Wrongful Death Statute, the "proceedings must be arrested until the

pleadings are so amended that the suit can be conducted for the use of all of the beneficiaries.” *Ft. Worth & D.C.R. Co. v. Wilson*, 22 S.W. 578, 579 (Tex. 1893) (citing *Ry. Co. v. Culberson*, 5 S.W. 820 (Tex. 1887)). It is no excuse that the statute of limitations bars the claim of the beneficiaries not joined. *Id.* (citing *R.R. Co. v. Spiker*, 59 Tex. 435 (1883)). Further, “every action shall be prosecuted in the name of the real party in interest, but *a party authorized by statute may sue in his own name without joining with the party for whose benefit the action is brought.*” *Del Valle Rodriguez v. Wheeler*, 16 F.R.D. 103, 104 (S.D. Tex. 1954). Accordingly, while it is not necessary that Plaintiff join the decedent’s parents in his wrongful death cause of action, it is necessary that Plaintiff bring his wrongful death claim “for the use of all of the beneficiaries.” *Ft. Worth & D.C.R. Co.*, 22 S.W. at 579.

After carefully considering Defendant’s Motion, Plaintiff’s Response, and the hearing held on the Motion, the Court **GRANTS** Defendant’s Motion to Abate.

The cause is stayed and the Clerk of the Court shall **ADMINISTRATIVELY CLOSE** this case until the parties file an advisory to the Court as to the status of the case.

Any motions pending in this action are **DENIED WITHOUT PREJUDICE**; they may be reasserted, if and as appropriate, when the case is reinstated to the active docket.

It is so **ORDERED**.

SIGNED this 26th day of September, 2018.



DAVID COUNTS
UNITED STATES DISTRICT JUDGE